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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/821,230	03/29/2001	Satoru Tange	SHC0121	7158

7590 12/16/2003

Michael S. Gzybowski  
Butzel Long  
350 South Main Street  
Suite 300  
Ann Arbor, MI 48104

EXAMINER
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GUARRIELLO, JOHN J

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 12/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/821,230	TANGE ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	John J. Guarriello	1771	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 September 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

15. The Examiner acknowledges the amendment of 9/17/2003, and with this action withdraws the final rejection of 6/01/2003, and continues prosecution.

16. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

#### ***Claim Rejections - 35 USC § 112***

17. Claims 1, 2 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for inelastically stretchable fibrous layer formed with inelastically stretchable continuous fibers, does not reasonably provide enablement for elastically stretchable layer since this layer can be a fiber or film stretch layer. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make/use the invention commensurate in scope with these claims.

It is the Examiner's position that the scope of the elastically stretchable layer of the claim is not enabled for both film or fiber, but is enabled by scope to elastically stretchable continuous fibers as noted in the instant specification on page 8, line 7-11.

18. Claim 1 is objected to because of the following informalities: In claim 1, line 9, "is" is inappropriate grammar, this should be the term **in**.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

19. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

20. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Morman 5,116,662.

Morman describes a composite elastic material which has at least one elastic layer, (which corresponds to the claimed elastically stretchable layer), (column 3, lines 30-33). Morman describes the elastic layer is joined to at least one necked material at least at three locations arranged in a nonlinear configuration (which corresponds to the claimed inelastically stretchable fibrous layer which is bonded orthogonally), (column 3, lines 33-36). Morman describes the

composite elastic material has stretch and recovery in at least one direction, which corresponds to the claimed inelastic fibrous layer in substantially one direction), (column 3, lines 35 –52).

Morman describes the essential limitations of the claimed invention.

Claim lacks novelty.

### ***Claim Rejections - 35 USC § 103***

21. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

22. Claims 1-2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morman 5,116,662.

Morman describes the composite sheet as above in paragraph #

20. Morman differs because it is silent about the stretch efficiency of claim 2.

Regarding stretch efficiency, Morman describes stretch and recovery, (column 3, lines 40-53).

It would have been obvious to one of ordinary skill in this art to optimize the stretch efficiency in one direction motivated with the expectation that Morman describes the general conditions of the claimed invention it has been held that discovering optimum value for ranges, corresponding to the stretch efficiency involves only routine skill in this art, In re Aller, 105 USPQ 233.

23. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John J. Guarriello whose telephone number is 703-308-3209. The examiner can normally be reached on Monday to Friday from 8 am to 4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris, can be reached on (703) 308-2414. The fax phone number for the organization where this application or proceeding is assigned is 703-305-5408.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.


  
John J. Guarriello:gj

Patent Examiner

October 20, 2003

November 10, 2003

November 17, 2003

  
TERREL MORRIS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700